IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2418 OF 2006

Mahalaxmi Tourism Development and anr. .. Petitioners

Versus

State of Maharashtra and Ors. .. Respondents

Mr. Dinesh Purandare i/by P.D.S. Legal for Petitioners.

Mr.K.R. Belosey, A.G.P. for R.No. 1.

Ms. S. Ajitkumar for R. No. 2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: DECEMBER 05, 2006

P.C.:

. The Petitioners were earlier allowed to run gymnasium. for the period of three years upto April, 2004. The contract was renewable upto the period of 2005-06. The respondents did not renew the agreement for the year 2005-06 and the Petitioner according to respondent was informed well in advance. That expired in Jun.2006. Inspite of non renewal the Petitioner was in possession. For the period the Petitioner was in possession, the Petitioner is due and payable the sum of Rs.5,20,426/- approximately. It has not yet been paid till date.

. According to Respondents, they invited fresh

tenders on 20.7.2006. The Petitioner herein was one of the bidders and his bid was highest responsive. Out of the five tenders received, two bids were found responsive. According to respondents, considering the Previous record of the Petitioner, they did not wish to extend the offer. Second tender was lowest and therefore, it was not accepted. On account of this, fresh tenders were invited on 30.9.2006. Pursuant to this tenders, they received tender packets which have not been opened.

. The question in these circumstance, is whether the action of the respondents in rejecting the petitioner's tender can be said to be arbitrary. It is always provided in the tender that it is open to the respondents to reject all tenders and or to accept the tender as long as the said action is not arbitrary. In the instant case, pursuant to tenders on July, 2006 they received two responsive tenders out of which one was of the Petitioner. The Petitioner according to Respondents were irregular in payment of rent and in fact was in arrears of the sum of Rs.5,20,426/-.

. Considering the above, it is not possible to hold that the action of the respondents in rejecting the tenders invited in July, 2006 is arbitrary. The

Petition has been filed on 12.10.2006. Much before that on 30.9.2006 fresh tenders were invited. Considering that in our opinion, this will not be a fit case for this court to exercise its extra ordinary jurisdiction. Hence, Petition rejected.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**